



WILLIAM T FUJIOKA  
Chief Executive Officer

## County of Los Angeles CHIEF EXECUTIVE OFFICE

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April 5, 2013

To: Supervisor Mark Ridley-Thomas, Chairman  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

### SACRAMENTO UPDATE

#### Executive Summary

This memorandum provides an update on the following:

- **Pursuit of County Position to Oppose AB 194 (Campos).** This measure would amend the Brown Act to make it a misdemeanor for the chairperson of a local legislative body to prohibit public criticism of the agency's services and related activities. Therefore, unless otherwise directed by the Board, consistent with existing policy related to abridgement or elimination of the Board of Supervisors' powers and duties, and policy to oppose the imposition of unreasonable burdens to provide access to information managed by County agencies, **the Sacramento advocates will oppose AB 194.**
- **Status of County-Sponsored Legislation**
  - **County-Sponsored AB 246 (Bradford)** - related to the Brown Act passed the Assembly Local Government Committee on April 3, 2013.

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- **Status of County-Advocacy Legislation**

- **County-Opposed AB 218 (Dickinson)** - related to public employment practices passed the Assembly Judiciary Committee on April 2, 2013.
- **County-Supported SB 20 (Hernandez)** - related to student loan repayment assistance for recently licensed physicians passed the Senate Health Committee on April 3, 2013.
- **County-Supported SB 402 (De Leon)** - related to the Ten Steps to Successful Breastfeeding passed the Senate Health Committee on April 3, 2013.

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**Legislation of County Interest**

**AB 194 (Campos)**, which as introduced on January 28, 2013, would make it a misdemeanor for the chairperson of a legislative body of a local agency to prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body, as protected under the Brown Act.

The Brown Act requires, with certain exceptions, that all meetings of a local legislative body be open and public, permitting all persons to attend and participate. The Act disallows a local agency from prohibiting public criticism of its policies, procedures, programs, or services. In addition, the Act allows local agencies to establish reasonable rules to manage and conduct public comment, in effect designating open meetings as limited public forums, in which time, place, and manner restrictions are permissible.

As introduced, AB 194 would amend the Brown Act to make it a misdemeanor for the chairperson of a legislative body to prohibit public criticism of the legislative body. The bill would further authorize a district attorney or an interested party to commence judicial determination as to whether an action taken by a local governing body is in violation of this statute, and therefore, is null and void.

The Executive Office of the Board indicates that AB 194 could significantly impact the Board of Supervisors and the Executive Office by encouraging members of the public to file court actions against the Chair of the Board of Supervisors, as well as the chairs for the dozens of County commissions and committees. The Executive Office of the Board notes that under AB 194, in certain cases it could be very difficult for a chairperson to enforce appropriate time limits for public comment and to distinguish between legitimate, protected criticism of a legislative body from unwarranted and/or personal

abuse. This could lead to major difficulties in managing open meetings in an appropriate and timely fashion. In addition, the Executive Office of the Board notes that the bill may pose a serious problem in persuading citizen volunteers on County commissions and committees to serve as chairs of their respective legislative bodies once they are aware of the extent of this statute. Such reluctance would negatively impact the operations of commissions such as the civil service, employee relations, other regulatory commissions, joint power authorities and non-profit corporation boards.

County Counsel concurs with the concerns expressed by the Executive Office of the Board, noting that the proposed language is overbroad and inconsistent with existing law which allows the legislative body of a local agency to adopt reasonable rules, such as time limits, for public comment. Under AB 194, a chair could be guilty of a misdemeanor for imposing a time limit on a speaker who is criticizing the board even if the chair is justly imposing a content-neutral time limit. County Counsel notes that a board or commission can be cleared of wrongdoing civilly, but still convicted of a misdemeanor, in effect making the standard for a criminal conviction lower.

This office and the Executive Office of the Board oppose AB 194. County Counsel concurs with this recommendation. Therefore, unless otherwise directed by the Board, consistent with existing policies to oppose: 1) any abridgement or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher priority of the Board; and 2) legislation that imposes unreasonable burdens or creates unfunded mandates to provide access to records, information managed and maintained by County agencies, **the Sacramento advocates will oppose AB 194.**

AB 194 is opposed by the California State Association of Counties, Urban Counties Caucus, Rural County Representatives of California and California Association of Clerks and Election Officials. There is no registered support on file.

This measure is scheduled to be heard in the Assembly Local Government Committee on April 24, 2013.

### **Status of County-Sponsored Legislation**

**County-sponsored AB 246 (Bradford)**, which was introduced on February 6, 2013, would amend the Brown Act to add the Governor to the existing list of officials whom local governing bodies can meet in closed session with on specified matters of security, passed the Assembly Local Government Committee by a vote of 9 to 0 on April 3, 2013. This measure now proceeds to the Assembly Floor.

**Status of County-Advocacy Legislation**

**County-opposed AB 218 (Dickinson)**, which as introduced on February 4, 2013, would prohibit a State or local agency from inquiring about criminal history on any initial employment application, except where otherwise required by law, passed the Assembly Judiciary Committee by a vote of 6 to 3 on April 2, 2013. This measure now proceeds to the Assembly Appropriations Committee.

**County-supported SB 20 (Hernandez)**, which as amended February 14, 2013, would require funds deposited into the Managed Care Administrative Fines and Penalties Fund in excess of \$1.0 million, plus interest, to be used for the Steven M. Thompson Physician Corps Loan Repayment Program to provide student loan repayment assistance to recently licensed physicians who practice in health professional shortage areas in California, passed the Senate Health Committee by a vote of 9 to 0 on April 3, 2013. This measure now proceeds to the Senate Appropriations Committee.

**County-supported SB 402 (De Leon)**, which as introduced on February 20, 2013, would require all general acute care and special hospitals that have a perinatal unit to adopt the Ten Steps to Successful Breastfeeding by January 1, 2020, passed the Senate Health Committee by a vote of 7 to 3 on April 3, 2013. This measure now proceeds to the Senate Appropriations Committee.

We will continue to keep you advised.

WTF:RA  
MR:VE:PC:ma

c: All Department Heads  
Legislative Strategist  
Local 721  
Coalition of County Unions  
California Contract Cities Association  
Independent Cities Association  
League of California Cities  
City Managers Associations  
Buddy Program Participants